



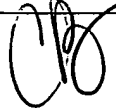
# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/647,162	08/22/2003	Donald E. Weder	8403.964	1490
30589	7590	02/17/2004	EXAMINER	
DUNLAP, CODDING & ROGERS P.C. PO BOX 16370 OKLAHOMA CITY, OK 73113			GELLNER, JEFFREY L	
			ART UNIT	PAPER NUMBER
			3643	

DATE MAILED: 02/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application N .</b>	<b>Applicant(s)</b>	
	10/647,162	WEDER, DONALD E. 	
	<b>Examiner</b>	<b>Art Unit</b>	
	Jeffrey L. Gellner	3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 22 August 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>22 August 2003</u> .  | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Priority***

Examiner considers the claims in the instant invention to be drawn to Figs. 20-22. Since the comparable figures in US 6,385,904 B1 show a bottom gusset (26r of Figs. 20 and 21 in 6,385,904 B1) the priority of the instant Application is considered to be 18 September 2001, the filing date of 09/954,665 which is abandoned.

### ***Claim Rejections - 35 USC §103***

The following is a quotation of 35 U.S.C. §103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3-7, 8,10,11,12,14, and 15 are rejected under 35 U.S.C. §103(a) as being unpatentable over de Klerk et al. (US 5,228,234; the 7<sup>th</sup> document from the bottom of page 5 of Applicant's 1449) in view of Geigel (US 3,357,152; the 2<sup>nd</sup> document from the bottom of page 2 of Applicant's 1449).

As to Claim 1, de Klerk et al. discloses a flexible floral sleeve (Fig. 3) for containing a pot, comprising: a flattened body having a first panel, a second panel, an upper end, a left side edge absent a gusset (Fig. 3), lower end having a bottom edge (Fig. 3), a right side edge absent a gusset (Fig.3), and an inner retaining space, the flattened body further comprising a lower portion (region generally around 30 of Fig. 3) and an upper portion (35 of Fig. 3) which is detachable from the lower portion via a detaching element (34 of Fig. 3) between the upper

Art Unit: 3643

portion and lower portion, and wherein the left side edge and the right side edge are angled inwardly near the lower end to form a half hexagonal shape (region generally around 33 of Fig. 3) in the lower end of the flattened body, and the flattened body absent a gusset in the lower end. Not disclosed is the bottom edge of the lower end comprises a straight seal between the left side edge and the right side edge, and the lower portion of the floral sleeve is completely tapered between the half hexagonal shape in the lower end and the detaching element. Geigel, however, discloses a bottom edge of the lower end comprises a straight seal between the left side edge and the right side edge (26 of Fig. II; col. 1 lines 43-47). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the sleeve of de Klerk et al. by having a straight seal in the lower end so that the bag does not leak water when a floral grouping is place in the sleeve and further to have the sleeve completely tapered between the lower end and the detaching element so as to make a more "smooth" profile so as to meet consumer demand.

As to Claim 3, de Klerk et al. as modified by Geigel further disclose the floral sleeve sized to surround a floral grouping and pot. (Fig. 3).

As to Claims 4-6, de Klerk et al. as modified by Geigel further disclose the floral sleeve with a nonlinear, scalloped skirt portion (region around end of leadline of 32 in Fig. 3).

As to Claim 7, de Klerk et al. as modified by Geigel further disclose the floral sleeve with a line of perforations (34 of Fig. 3).

As to Claim 8, de Klerk et al. discloses a flexible floral sleeve (Fig. 3) for containing a pot, comprising: a flattened body having a first panel, a second panel, an upper end, a left side

Art Unit: 3643

edge absent a gusset (Fig. 3), lower end having a bottom edge (Fig. 3), a right side edge absent a gusset (Fig.3), and an inner retaining space, the flattened body further comprising a lower portion (region generally around 30 of Fig. 3) and an upper portion (35 of Fig. 3) which is detachable from the lower portion via a detaching element (34 of Fig. 3) between the upper portion and lower portion, and the lower portion comprising a skirt portion (region around end of leadline of 32 in Fig. 3), the upper edge having an angular pattern (defining 32 as having angles), wherein the left side edge and the right side edge are angled inwardly near the lower end to form a half hexagonal shape (region generally around 33 of Fig. 3) in the lower end of the flattened body, and the flattened body absent a gusset in the lower end. Not disclosed is the bottom edge of the lower end comprises a straight seal between the left side edge and the right side edge, and the lower portion of the floral sleeve is completely tapered between the half hexagonal shape in the lower end and the detaching element. Geigel, however, discloses a bottom edge of the lower end comprises a straight seal between the left side edge and the right side edge (26 of Fig. II; col. 1 lines 43-47). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the sleeve of de Klerk et al. by having a straight seal in the lower end so that the bag does not leak water when a floral grouping is place in the sleeve and further to have the sleeve completely tapered between the lower end and the detaching element so as to make a more "smooth" profile so as to meet consumer demand.

As to Claim 10, de Klerk et al. as modified by Geigel further disclose the floral sleeve sized to surround a floral grouping and pot. (Fig. 3).

As to Claim 11, de Klerk et al. as modified by Geigel further disclose the floral sleeve with a line of perforations (34 of Fig. 3).

As to Claim 12, de Klerk et al. discloses a flexible floral sleeve (Fig. 3) for containing a pot, comprising: a flattened body having a first panel, a second panel, an upper end, a left side edge absent a gusset (Fig. 3), lower end having a bottom edge (Fig. 3), a right side edge absent a gusset (Fig.3), and an inner retaining space, the flattened body further comprising a lower portion (region generally around 30 of Fig. 3) and an upper portion (35 of Fig. 3) which is detachable from the lower portion via a detaching element (34 of Fig. 3) between the upper portion and lower portion, and the lower portion comprising a skirt portion (region around end of leadline of 32 in Fig. 3), the upper edge having a nonlinear pattern (32 of Fig. 3), wherein the left side edge and the right side edge are angled inwardly near the lower end to form a half hexagonal shape (region generally around 33 of Fig. 3) in the lower end of the flattened body, and the flattened body absent a gusset in the lower end. Not disclosed is the bottom edge of the lower end comprises a straight seal between the left side edge and the right side edge, and the lower portion of the floral sleeve is completely tapered between the half hexagonal shape in the lower end and the detaching element. Geigel, however, discloses a bottom edge of the lower end comprises a straight seal between the left side edge and the right side edge (26 of Fig. II; col. 1 lines 43-47). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the sleeve of de Klerk et al. by having a straight seal in the lower end so that the bag does not leak water when a floral grouping is place in the sleeve and further to have the sleeve completely tapered between the lower end and the detaching element so as to make a more “smooth” profile so as to meet consumer demand.

As to Claim 14, de Klerk et al. as modified by Geigel further disclose the floral sleeve sized to surround a floral grouping and pot. (Fig. 3).

As to Claim 15, de Klerk et al. as modified by Geigel further disclose the floral sleeve with a line of perforations (34 of Fig. 3).

Claims 2, 9, and 13 are rejected under 35 U.S.C. §103(a) as being unpatentable over de Klerk et al. (US 5,228,234; the 7<sup>th</sup> document from the bottom of page 5 of Applicant's 1449) in view of Geigel (US 3,357,152; the 2<sup>nd</sup> document from the bottom of page 2 of Applicant's 1449) in further view of Landau (US 5,235,782).

As to Claim 2, the limitations of Claim 1 are disclosed as described above. Not disclosed is the floral sleeve with the upper portion having apertures for supporting the floral sleeve upon a wicket. Landau, however, discloses an upper portion (28 of Fig. 1) with apertures (46 of Fig. 1) for wickets. It would have been obvious to one of ordinary skill in the art at the time of the invention to further modify the sleeve of de Klerk et al. as modified by Geigel by adding apertures for wickets as disclosed by Landau so that the sleeves could be readily stored before use.

As to Claim 9, the limitations of Claim 8 are disclosed as described above. Not disclosed is the floral sleeve with the upper portion having apertures for supporting the floral sleeve upon a wicket. Landau, however, discloses an upper portion (28 of Fig. 1) with apertures (46 of Fig. 1) for wickets. It would have been obvious to one of ordinary skill in the art at the time of the invention to further modify the sleeve of de Klerk et al. as modified by Geigel by adding

Art Unit: 3643

apertures for wickets as disclosed by Landau so that the sleeves could be readily stored before use.

As to Claim 13, the limitations of Claim 12 are disclosed as described above. Not disclosed is the floral sleeve with the upper portion having apertures for supporting the floral sleeve upon a wicket. Landau, however, discloses an upper portion (28 of Fig. 1) with apertures (46 of Fig. 1) for wickets. It would have been obvious to one of ordinary skill in the art at the time of the invention to further modify the sleeve of de Klerk et al. as modified by Geigel by adding apertures for wickets as disclosed by Landau so that the sleeves could be readily stored before use.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Weder et al. ('206 A1), Weder ('237 A1), Weder ('159 A1), JP9-12039, and JP11-334745 disclose in the art/prior art various sleeves with hexagonal lower ends.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Jeffrey L. Gellner whose phone number is 703.305.0053. The Examiner can normally be reached Monday through Thursday from 8:30 am to 4:00 pm. The Examiner can also be reached on alternate Fridays.

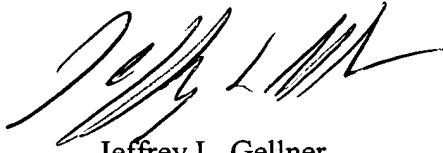
If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Peter Poon, can be reached at 703.308.2574. The official fax telephone number for the Technology Center where this application or proceeding is assigned is 703.872.9306.

Application/Control Number: 10/647,162

Page 8

Art Unit: 3643

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703.308.1113.

A handwritten signature in black ink, appearing to read 'Jeff L. Gellner', with a stylized, cursive script.

Jeffrey L. Gellner